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The Act for the Support of Common
Schools, 1819. 1822

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THE ACT
FOR THE SUPPORT OF
Common Schools.

PASSED APRIL 12, 1819.

*With Extracts from Acts passed March 30,
1820, and March 23, 1821.*

ALSO,

THE ACT

*To amend the Act for the support of Common
Schools, passed April 17, 1822.*

PUBLISHED IN COMPLIANCE WITH THE TENTH
SECTION OF THE ACT OF APRIL 17, 1822.



ALBANY:

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1822.

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1822



Sheldon Fund

AN ACT

For the support of Common Schools.

PASSED APRIL 12, 1819.

I. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly,* That there shall be constituted an officer, within this state, known and distinguished as the superintendent of common schools; who shall be appointed by the council of appointment, and shall keep his office at the seat of government of this state, and be allowed an annual salary of seven hundred dollars, payable in the same manner as is provided for other officers in and by the act entitled "An act for the support of government."

Office of superintendent of common schools constituted.

II. *And be it further enacted,* That it shall be the duty of the superintendent aforesaid, to digest and prepare, and report to the legislature, plans for the improvement and management of the common school fund, and for the better organization of common schools; to prepare and report estimates and accounts of expenditures of the school monies; to apportion the monies to be distributed for the support of common schools; to give information to the legislature respecting all matters which may appertain to his office: And generally, to perform all such services relative to the welfare of common schools, as he shall be directed to perform; and shall, prior to his entering on the duties of his office, take an oath or affirmation for the diligent and faithful execution of his trust.

General duties of the superintendent. See also, sections 1, 7, 9, 10, and 11, of the act amending this act, passed April 17, 1822.

III. *And be it further enacted,* That out of the annual revenue of the fund for the support of common schools, the sum of seventy thousand dollars shall be annually distributed among the several counties of this state, for the support and encouragement of common schools therein, until the annual revenue of the said fund shall amount to ten thousand dollars over and above the said sum of seventy thousand dollars: And whenever, and as often as the annual revenue of the said fund shall hereafter amount to ten thousand dollars, over and above the sum then last before distributed, the sum of ten thousand dollars shall be added to the sum then last before distributed, and the whole amount thereof be thereafter distributed as aforesaid; which said sum or sums of money shall be apportioned by the superintendent of common schools, in the manner hereinafter directed, and be paid on the warrant of the comptroller, on the first day of February in each and every year hereafter, to the treasurers of the several counties aforesaid, according to the apportionment thereof, to be made as aforesaid, and certified to the comptroller by the superintendent aforesaid.

Amount to be annually distributed out of revenue of school fund.

When and how to be paid.

IV. *And be it further enacted,* That it shall be the duty of the treasurer of each county, to apply for and receive all such monies as shall from time to time be apportioned to his county, as soon as may be after the same shall become payable: And on receiving such monies, it shall be the duty of such treasurer to give notice in writing, as soon thereafter as may be, to the commissioners of common

Duty of county treasurer in applying for school money, giving notice and paying same.

schools, or some or one of them, of each town or city in his county, of the amount of such monies apportioned as hereinafter directed to such town or city, and to hold the same, subject to the order of the said commissioners: And in case the said commissioners, having such notice, shall not apply for and receive such monies, so to be apportioned to their town or city as aforesaid; or in case any such town or city shall not have any such commissioners to apply for and receive such monies, before the monies next thereafter payable to such county for the use of common schools shall be received by such treasurer; such monies so remaining with such treasurer, shall be apportioned by him among the several towns and cities of his county, in the ratio of the population of such towns and cities, to be ascertained as hereinafter directed, and to be added to and distributed together with the said monies next thereafter to be received by him as aforesaid: And for receiving and paying all such monies, such treasurer shall be entitled to the same compensation, to be paid in the same manner, as is, or shall be provided by law, for receiving and paying other monies, which shall come into his hands; and he shall account for all such monies, and be under like penalties and forfeitures for default therein, as is, or shall be provided by law, for or in respect to other sums of money received by him.

This compensation.

Superintendent of common schools to apportion school money and how. See also, section 1, of the act amending this act, passed April 17, 1822.

V. *And be it further enacted*, That immediately after the passing of this act, it shall be the duty of the superintendent of common schools to apportion the said sum of money, to be distributed as aforesaid among the several counties of this state, and the several shares of such counties, among the several towns and cities thereof, in the ratio of the population of such counties and towns or cities, as the same is ascertained by the last census of this state, and to give notice thereof in writing, to each of the clerks of such counties, setting forth the amount of money apportioned to his county, and to each of the towns and cities of his county, and the time when the same shall be payable to the treasurer of said county: And whenever and as often as the amount of money to be distributed as aforesaid, shall hereafter be increased as aforesaid; and whenever, and as often as a new census of the population of this state shall hereafter be taken, by authority of this state, or of the United States, it shall be the duty of the superintendent of common schools to make a new apportionment of the said monies, among the several counties, towns, and cities of this state, in the ratio of the population of such counties, towns, and cities, as the same shall be ascertained by the then latest census, whether of the United States or of this state; and to give notice thereof in writing, in the manner aforesaid, at least nine months before the monies so to be distributed shall be payable: And whenever a new county shall be erected, or any county or counties of this state shall be divided, or in any manner altered, so as to render the apportionment of the said monies, then last before made to such county or counties, unjust, it shall be the duty of the superintendent of common schools to make, in the manner aforesaid, a new apportionment of the said monies, between the said new county, and the county or counties so to be divided or altered as aforesaid, and to give notice thereof as aforesaid: And whenever any new town or city shall be erected, or any city, town or towns of this state shall be divided, or in any manner altered, so as to render the apportionment of the said monies, then last before made to such city,

County treasurer, to alter apportionment in certain cases, and give notice, &c.

town or towns, unjust, it shall be the duty of the treasurer of the county, within which such city, town or towns shall be, to make, in manner and according to the ratio aforesaid, a new apportionment of the said monies, between such new city or town, if any such there shall be, and the said city, town or towns, so to be divided or altered as aforesaid; and to transmit or deliver a copy thereof to the clerk of his county, to be filed in his office, and a copy thereof, in like manner, to the clerk of the board of supervisors of his county, to be laid before said board, at their next meeting thereafter: *Provided*, That whenever, by reason of the division, or alteration of any county or counties, or by reason of any error, or deficiency in the said census, the exact population of such counties, or of any other counties, cannot be ascertained by said census, it shall be lawful for the superintendent of common schools to make such apportionment, as aforesaid, among such counties, according to the population thereof, as the same shall be ascertained by the best evidence in his power. *And provided further*, That whenever, by reason of the division, or alteration of any city, town or towns, or by reason of any error, or deficiency in the said census, the exact population of such city or towns, or of any other cities or towns, cannot be ascertained by said census, so as to enable the superintendent of common schools to make said apportionment, it shall be the duty of the treasurer of the county, within which such city, town or towns shall be, to make such apportionment, as aforesaid, among such cities and towns, according to the population thereof, as the same shall be ascertained by the best evidence in his power, and to deliver a true copy thereof to the clerk of his county, to be filed in his office, and a true copy thereof to the clerk of the board of supervisors, to be laid before them as aforesaid.

County treasurer when to apportion money, &c.

VI. *And be it further enacted*, That whenever the clerk of any county shall receive from the superintendent of common schools, notice of the apportionment of monies to be distributed as aforesaid, he shall forthwith, without fee or reward, file the same in his office, and deliver or transmit a certified copy thereof to the treasurer of his county, and to the clerk of the board of supervisors of his county; and it shall be the duty of the clerk of the board of supervisors of such county, on receiving such notice, and on receiving all other like notices from the treasurer of his county, to exhibit and lay the same before the supervisors of his county, at their next meeting thereafter: And it shall be the duty of the supervisors of such county, at such meeting, and at every annual meeting thereafter, to add to the sum or sums of money to be raised or levied on each of the towns of their county, for defraying the necessary expenses thereof, a sum equal to the sum which shall be last apportioned as aforesaid, to each of such towns, with the addition thereto of five cents on a dollar of said sum, for collecting fees, and to cause the same to be collected, within the same time, and in the same manner, as the other sums to be raised and levied on said towns, are by law to be collected; and to cause and require the collector of each of said towns, by their warrant to him, to pay the same, when collected, retaining his fees for collection, to the commissioners of common schools in such town, or to some or one of them, for the use of common schools therein, whose receipt therefor shall be good and sufficient evidence of such payment: *Provided*, That if there shall not be any commis-

Duty of county clerk on receiving notice of apportionment.

Duty of clerk of supervisors.

Duty of board of supervisors to raise money by tax.

How it is to be collected and paid.

tioners of common schools in such town, at the time such monies shall be collected as aforesaid, it shall be the duty of the collector of such town to pay the same, retaining his fees for collection as aforesaid, to the treasurer of his county, to be by him apportioned among the several towns and cities of his county, according to the population thereof, to be ascertained as herein before directed, and added to, and distributed with the monies next thereafter to be received and distributed by him in pursuance of this act.

Towns may
vote addi-
tional sum to
be raised.

VII. *And be it further enacted*, That in every case in which the freeholders and inhabitants of any town, at their annual meeting, by a vote of said meeting, shall agree to raise a sum, for the support of common schools in their town, not exceeding the amount required by this act to be raised on such town, then and in such case, it shall and may be lawful for the board of supervisors of the county in which such town is situated, to cause and require the sum so voted to be raised by such town, to be levied, collected, and paid, in the same manner as is provided in and by the preceding section of this act.

Town collec-
tor, his duty,
and penalty
for default.

VIII. *And be it further enacted*, That the collector of each town shall account for the monies, so to be collected and paid by him as aforesaid, in the same manner; and in case of his default in collecting, paying, or accounting for the same, he shall be liable to the same penalties and course of procedure, as is or shall be provided by law, for or in respect to the collection or payment of other sums of money, to be raised or levied on such town for defraying the necessary expenses thereof; and the supervisors of each county shall severally be liable to the same penalties, for refusal or neglect to perform any duty required of them by this act, as is provided for refusal or neglect to perform other duties, in and by the tenth section of the act, entitled "An act for defraying the public and necessary charges in the respective counties of this state, and for other purposes."

Penalty on
supervisors
for neglect.

Towns to
elect com-
missioners
and inspec-
tors of com-
mon schools at
annual town
meeting.

IX. *And be it further enacted*, That the freeholders and inhabitants of each and every town in this state, who are or shall be qualified by law to vote at town meetings, shall annually, at their annual town meetings, or at any special town meeting for that purpose to be called, choose three of the inhabitants of their town, being freeholders, to be commissioners of common schools in such town; also three other persons, being inhabitants of such town, who, together with the commissioners aforesaid, shall be inspectors of common schools in such town; which said commissioners and inspectors shall be chosen by ballot, and shall hold their respective offices until the next annual town meeting after their election, and until others shall be chosen and qualified in their places: And in case any of the said officers, so chosen or to be chosen as aforesaid, in any such town, shall refuse to serve, or die, or remove out of the town, or become incapable of serving, before the next annual town meeting, the vacancy, consequent thereon, shall be supplied in the same manner as is or shall be provided by law, for supplying similar vacancies, in other town offices; and each of the officers so to be chosen or appointed to supply such vacancy as aforesaid, shall hold his office in the same manner as if he had been elected to the same office, by the freeholders and inhabitants of such town at their annual town meeting.

Vacancies in
such offices
how supplied

K. *And be it further enacted,* That each of the said officers, so to be chosen or appointed as aforesaid, shall, before he enters upon the execution of his office, and within fifteen days after his election or appointment as aforesaid, take and subscribe an oath, before some justice of the peace, in the form following, that is to say: "I

, do solemnly and sincerely promise and swear, (or affirm, as the case may be,) that I will in all things, to the best of my knowledge and ability, well and truly execute the trust reposed in me, as commissioner, (or inspector, as the case may be,) of common schools, for (here insert the name of the town and county,) without favour or partiality;" and every justice of the peace, before whom such oath shall be taken and subscribed as aforesaid, shall, without fee or reward, certify under the same, in writing, the day and year when the same oath shall be taken, and subscribe his name thereto, and then deliver such writing to the person taking such oath, who shall, within eight days thereafter, transmit or deliver the same to the clerk of the town, for which such officer, so taking such oath, was elected or appointed, to be by him filed in his office, without fee or reward: And if any such officer, so chosen or appointed, shall not take and subscribe such oath, and transmit or deliver the same to the clerk of the town, within the time for that purpose limited as aforesaid, such neglect shall be deemed a refusal to serve in such office: and if any person so chosen or appointed to such office, shall refuse to serve therein, or shall serve therein before he shall have taken and subscribed such oath as aforesaid, then and in every such case, such person shall forfeit and pay the sum of ten dollars, to be recovered with costs of suit, before any justice of the peace having jurisdiction thereof, by action of debt, to the use of the common schools of the town for which such officer was chosen or appointed as aforesaid, to be paid to the commissioners of such schools; and it shall be the duty of the supervisor of such town to prosecute for such penalty in his own name, and to pay the same when recovered to the said commissioners.

Commissioners and inspectors to take oaths of office.
Oaths not to be taken
See section 3 of chap. 128, of the 44th sess. March 22, 1821.

Refusal to serve, and penalty therefor.

XI. *And be it further enacted,* That the town clerk shall, by virtue of his office, be the clerk of the commissioners of common schools in each town; and that it shall be his duty, as such clerk, to receive and keep all reports made to the said commissioners from the trustees of school districts, and all books, records, writings, and papers belonging to the said commissioners; to attend all their meetings, and to prepare, under their direction, and enter in the town records, or in a book to be provided for that purpose, all reports, estimates, and apportionments of school money to be made by them, and to record all other of their proceedings under this act; to receive all such communications as may be directed to him by the superintendent of common schools, and to dispose of the same in the manner directed; to transmit to the clerk of his county all such reports as may be made to him by the commissioners of common schools aforesaid; and generally, to do and receive all such acts, matters, and things, as appertain to his office and duty: and for all such services, he shall be entitled to such compensation, as the board of supervisors of his county, on his accounts therefor to be presented to and audited by them, shall allow; and such compensation, being so allowed, shall be considered a part of the necessary expenses of his town, and be raised, collected, and paid, in the same manner as

Town clerk to be clerk of the commissioners, and his duty as such.

His compensation.

To deliver
all papers,
&c. to his
successor.

other necessary town expenses are by law to be paid; and upon his death, or the expiration of his office as town clerk, all records, books, writings, and papers, belonging to his office, as clerk of the commissioners aforesaid, shall pass and be delivered to his successor in office, in the same manner, at the same time, and under like penalties and forfeitures for refusal or neglect, to be recovered in like manner, and to and for the same uses, as is or shall be provided by law, for or in respect to the records, books, writings, and papers belonging to his office as town clerk.

Commissioners to form and alter school districts. See sec. 6 of the act amending this act. passed April 17, 1832.

XII. *And be it further enacted*, That it shall be the duty of the commissioners of common schools, or the major part of them, to divide their respective towns into a suitable and convenient number of school districts; and to alter and regulate the same as hereinafter provided. And whenever it may be convenient and necessary to form a district out of two or more adjoining towns, it shall and may be lawful for the commissioners aforesaid, or the major part of them, from each of such adjoining towns, to form such district, and to alter and regulate the same as aforesaid. And wherever it has been usual, or shall hereafter be found convenient and proper, for any neighbourhood, or part of any town, adjoining to any other state, to send their children to a school in such adjoining state, it shall be lawful for the commissioners of common schools in such town, or the major part of them, to set off such neighbourhood, or part of such town, by itself, for the purpose aforesaid, and to alter and regulate the same as aforesaid: And it shall be the further duty of the commissioners of common schools, immediately after the formation or alteration of any such school district in their respective towns, to describe and number the same, and to deliver the description and number thereof in writing, to the clerks of their respective towns, who are hereby required to receive and record the same, in the town records, without fee or reward: and where a district shall be formed out of two or more adjoining towns, or the same shall be altered as aforesaid, a description and number thereof, and a description of the part thereof in each of such towns, shall be made and delivered as aforesaid, by the commissioners of common schools of each of such towns, to the respective clerks thereof, to be filed and recorded as aforesaid; and whenever a neighbourhood, or part of any town adjoining to any other state, shall be set off by itself as aforesaid, a description thereof shall be made and delivered as aforesaid, to the clerk of such town, to be by him filed and recorded as aforesaid:

To describe and number the same and have them recorded.

Alteration of districts not to take effect under three months unless by consent.

Provided, That no alteration of any school district, to be made by the commissioners aforesaid, without the consent of the trustees thereof, shall be operative, or take any effect, until the expiration of three calendar months after notice, in writing, of such alteration, shall be made by the said commissioners, or some one of them, and served on the trustees of such district, or some or one of them.

Commissioners to give notice when district is formed, and how same shall be served, &c. See sec. 2 of the act amending this act, prohibiting

XIII. *And be it further enacted*, That whenever any school district shall be formed in any town, by the commissioners of common schools, it shall be the duty of some or one of the said commissioners, within twenty days thereafter, to make a notice in writing, describing such district, and appointing a time and place for the first district meeting, and to deliver such notice in writing to some one of the freeholders or inhabitants, liable to pay taxes, residing in such district, whose duty it shall be to notify each freeholder or inhabit-

ant reading in such district, liable to pay taxes, by reading such notice in the hearing of each such freeholder or inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days before the time of such meeting; and if any such freeholder, or inhabitant, shall neglect or refuse to give such notice, he shall forfeit and pay the sum of five dollars, to be recovered with costs of suit, before any justice of the peace having cognizance thereof, by action of debt, the one moiety thereof to the use of common schools of the town, where such district shall be situated, to be paid to the commissioners of such schools; and the other moiety thereof, with costs of suit, to the use of any person who shall prosecute for the same to effect: and in case such notice shall not be given as aforesaid, or the freeholders and inhabitants of such district, when so notified, shall refuse or neglect to assemble, or form a district meeting in pursuance of such notice, or in case any such district, having been formed and organized in pursuance of such notice shall afterwards be dissolved, so that no competent and lawful authority shall exist therein, to call a special district meeting of the freeholders and inhabitants thereof, in the manner hereinafter prescribed, it shall and may be lawful for the commissioners aforesaid, or any one of them, to renew such notice; which notice being so renewed, shall be delivered to some one of the said freeholders or inhabitants of such district, in manner aforesaid, whose duty it shall be to serve the same in manner aforesaid, on pain of like penalty and forfeiture for neglect thereof, to be recovered in like manner, and for the like uses as aforesaid.

the qualifications of voters, &c. passed April 17, 1822.

Notice when to be renewed

XIV. *And be it further enacted*, That the commissioners of common schools, in each town, shall be enabled to hold any real estate, or other property, which has been, or shall hereafter be granted to them for the use and benefit of the common schools in their town; and such property shall be to them and their successors in office, for the use and benefit aforesaid, in the same manner as if they were a body politic and corporate in law.

Commissioners may hold real estate,

XV. *And be it further enacted*, That it shall be the duty of the commissioners of common schools for each town, to apply for and receive from the treasurer of their county, all monies which shall be apportioned and payable to their town, for the use of common schools, as soon as may be after the same shall be apportioned, and payable as aforesaid: and whenever such monies, or any other monies, shall be received by them for the use of common schools, it shall be their duty to meet together, with their town clerk, and to apportion the same according to law: *Provided*, That such apportionment shall not be made in any year, before the time appointed by law for the trustees of school districts to make their annual district reports, shall have expired: and all such monies shall be apportioned by the said commissioners, or a majority of them, at such meeting, among the several school districts, and parts of school districts lying within their town, which shall remain organized according to law, (and the trustees of which shall have made to the said commissioners, within the time for that purpose hereinafter limited, the necessary district report, containing all the requisites as hereinafter provided,) according and in proportion to the number of children, between the ages of five and fifteen years, inclusive, living in

Commissioners to apply for and receive public money.

When and how to apportion the same.

each such district, and in each such parts of districts, as the same shall appear from the said district report to be made as aforesaid : and where a neighbourhood, or part of any town, adjoining to any other state, shall be set off by itself as aforesaid, and shall have complied with the provisions of this act, by electing one trustee, and making the necessary report as hereinafter required, such neighbourhood or part of such town, shall be entitled to its share of such monies, according to the number of children, between the ages aforesaid, living in such neighbourhood or part of such town, as the same shall appear from the report of the trustee of such neighbourhood to be made as aforesaid : and all such monies, when so apportioned by the said commissioners, shall be paid by them, according to such apportionment, to the trustees, or some or one of them, of the district or neighbourhood to which the same shall be apportioned, immediately after such apportionment : and in case the same shall not be so paid, on any lawful demand made therefor, it shall and may be lawful for the said trustees to sue for and recover the same from the commissioners, in whose hands the same shall be, by action for money had and received to the use of their district : *Provided always*, That no part of any such monies shall be apportioned or paid to any such district, or part of such district, unless it shall appear from the said report of the trustees thereof to be made as aforesaid, that a school hath been kept in said district, for at least three months during the year ending on the day of the date of said report, and since the date of their last report, by an instructor duly appointed and approved in all respects according to law ; and that all monies received for said district from the commissioners of common schools, during said year and since the date of their last report, have been faithfully applied in paying the wages of such instructor : *And provided further*, That no part of such monies shall be apportioned or paid to any such neighbourhood, or part of any town, adjoining to any other state, which shall be set off as aforesaid, unless it shall appear from the said report of the trustees thereof to be made as aforesaid, that all monies received for such neighbourhood, from the said commissioners, during the year ending on the day of the date of said report, and since the date of the last report, have been faithfully applied in paying for the instruction of children residing in said neighbourhood, or part of such town : and all monies which shall be apportioned by the said commissioners to any such district, part of such district, or neighbourhood as aforesaid, and which shall remain in their hands unpaid, for the space of one year, after notice of such apportionment shall be given to the trustees, or some or one of them, of such district or neighbourhood, by reason of the neglect or refusal of such trustee to receive the same, shall, after the expiration of such year, be added to the monies next thereafter to be apportioned by the said commissioners, and be apportioned and paid together with such monies as aforesaid : and in case any monies, which shall come into the hands of the commissioners aforesaid, for the use of the common schools of their town, cannot be apportioned by them, for the space of two years thereafter, by reason of the non-compliance of all the school districts in their town with the provisions of this act ; all such monies, so remaining not apportioned for the space of two years, shall be returned and paid, by the said commissioners, to the treasurer of their county, to be by him apportioned and distributed,

To pay same according to apportionment

May be sued for refusal.

Condition of the apportionment and payment.

If money be not paid, how long to remain with commissioners.

together with the monies next thereafter to be received by him for the use of common schools, in the same manner as is herein before provided, in case of monies paid to him, for the use of common schools, by the collector of any town in his county.

XVI. *And be it further enacted*, That it shall be the duty of the commissioners of common schools in each town, between the first day of July and the first day of October, in each year, to make and transmit to the clerk of their county a report in writing, containing the whole number of school districts, and parts of school districts, lying in their town, and distinguishing therein, the districts and parts of districts, from which the necessary district reports shall have been made to them, within the last period of time for that purpose limited, as hereinafter provided, and specifying the whole length of time a school shall have been kept in each of such districts and parts of districts, and distinguishing therein, what portion of that time the school shall have been kept by qualified teachers; specifying also the amount of public monies received in such district, the number of children taught therein, and the number of children between the ages of five and fifteen years, inclusive, living therein, as the same shall appear from the said district reports; and specifying also, the whole amount of monies received by them, the said commissioners, or their predecessors in office, for the use of common schools, during the year ending on the date of their report, and since the date of their last preceding report, and distinguishing therein the amount of such monies received from the county treasurer, the amount thereof from the town collector, and the amount thereof from any other, and what source; specifying also, how such monies have been expended, and whether any, and what part thereof remains unexpended, and for what cause: and if the said commissioners shall refuse or neglect to make and transmit such report to the clerk of their county, within the time for that purpose limited, they shall severally forfeit and pay the sum of ten dollars, to be recovered, with costs of suit, in the name and to the use of any person who shall sue for the same to effect, by action of debt, before any justice of the peace having cognizance thereof; and the share of public money apportioned to their town for the ensuing year, may, in the discretion of the superintendent of common schools, be withheld from such town, and be distributed among the other towns in the same county, from which the necessary reports shall have been made.

Commissioners to make annual report, when and how.

Penalty for neglect.

XVII. *And be it further enacted*, That the commissioners of common schools in each town, shall annually exhibit and lay before the board appointed by law to examine and audit the accounts of other town officers, and at the meeting of such board, next previous to the annual town meeting, a just and true account of all monies received by them respectively, for the use of common schools, and how the same have been expended by them: and all such accounts shall be examined and audited by the said board, in the same manner as the accounts of other town officers are by law to be examined and audited: and it shall be the further duty of the said commissioners, within fifteen days after the termination of their respective offices, to exhibit and render to their successors in office, a just and true account, in writing, of all monies by them respectively received, for the use of common schools, up to the time of rendering such account,

Commissioners to account to the town for money received.

Also to their successors in office, and to pay over balance.

and how the same shall have been appropriated and expended by them: and such account shall be delivered by the said successors in office to the town clerk for the time being, to be filed and recorded in his office: and if on exhibiting and rendering such account, any balance of the monies received as aforesaid, shall be found remaining in the hands of the said commissioners, or any of them, the same shall immediately thereafter be paid by the commissioner or commissioners, in whose hands the same shall be so found to be, to their successors in office, or some one of them; and if the said balance, or any part thereof, shall have been appropriated by the said commissioners to any particular school district in their town, and shall have remained in their hands for the use of such district, a statement of such appropriation shall be made in such account, and delivered over, together with such balance and account, to their successors in office, or some or one of them; and such balance, or so much thereof as shall have been appropriated as aforesaid, shall be paid by such successor in office, when received by them, according to such appropriation; and if any of the said commissioners of common schools shall refuse or neglect to exhibit and render such account, in the manner last aforesaid, or shall refuse or neglect to pay over, to his successors in office, any balance which shall be found to remain in his hands as aforesaid, together with the statement of the appropriation, if any there shall be, of such balance, to be made as aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered with costs of suit, in any court having jurisdiction thereof, by action of debt, in the name of the said successors in office, or any one of them, or in the name of any other person; and such sum, when so recovered, shall be paid to, and applied by, the said successors in office, to the use of the common schools in their town; and it shall and may be lawful for the said successors in office, or any one of them, to sue for, in his or their own name, and to recover against the said commissioner or commissioners, his or their executors or administrators, in whose hands any such balance shall be found in the manner aforesaid, or can be legally proved in any other manner, to be, and which shall not have been paid over by him or them to the said successors in office as aforesaid, the amount of such balance, together with interest thereon from the time the same ought to have been paid over as aforesaid, with costs of suit, by action for money had and received to the use of the common schools of their town, in any court having cognizance thereof; and such monies, so to be recovered, shall be applied to the use of such schools, in the same manner as if the same had been paid over as aforesaid, without suit.

Penalty for refusal.

May be used by successors

Inspectors of common schools, their duty in examining teachers and certifying, &c. See also, section 2, of the act amending this act, passed April 17, 1822.

XVIII. *And be it further enacted*, That it shall be the duty of the inspectors of common schools, to be chosen or appointed under this act, or any two of them, to examine all persons who shall offer themselves as candidates for teaching common schools in the town for which such inspectors shall be chosen or appointed, and in such examination, it shall be the duty of the said inspectors to inquire, and so far as they shall be enabled thereto, to ascertain and inform themselves, as to all the qualifications mentioned and contained in the certificate herein after specified and given in form; and if they or a majority of them present, shall be satisfied as to the sufficiency of such qualifications, they or a majority of them so present, shall cer-

tify in writing, under their hands, and deliver such certificate to the person so examined by them, in form or substance following, to wit: "We, the subscribers, inspectors of common schools, for the town of (here insert the town,) in the county of (here insert the county,) do Form of certificate. certify, that we have examined (here insert the name of the person) and do believe he or she, (as the case may be,) has a good moral character, and sufficient learning and ability, and is in all other respects well qualified to teach a common school. Given under our hands, at the day of in the year of our Lord, one thousand eight hundred and

} *Inspectors, &c.*

And it shall and may be lawful for the inspectors of common schools, May annul certificate on giving notice. or any three of them, to annul and declare void any certificate, so given by them, or any of them, or their predecessors in office as

aforesaid, to any such teacher; provided, that notice in writing, of their intention to annul such certificate, shall be given by the said inspectors, or some or one of them, to such teacher; and also, to the trustees of the district in which he or she shall be employed, at least ten days before such certificate shall be annulled. And it shall and may be lawful for the said inspectors, whenever they shall deem it necessary, to require a re-examination of all, or any of the teachers in their town, for the purpose of ascertaining their qualification to continue such teachers; and on such re-examination, to annul, in like manner, any such certificate given to any such teachers, after notice of their intention to annul the same shall be given as aforesaid:

Provided, That if the said trustees of the district, in which such teacher shall be employed, shall, on receiving any such notice, show to the satisfaction of the said inspectors, that their contract with such teacher was made before such notice was given to them, and shall express a desire to continue such teacher until the expiration of such contract, it shall not be lawful for the said inspectors to annul the said certificate until the expiration of the said contract: *Provided* Unless trustees show contract.

however, That such contract shall not extend beyond the term of three months from the time of giving such notice. *And provided* Certificate not annulled until notice given to town clerk. further, That the annulling of any such certificate, as aforesaid, shall not render the teacher, to whom the same was given, unqualified within the meaning of this act, until a note or memorandum thereof in writing, containing the name of the teacher whose certificate is annulled, and the time when the same was annulled, shall be made by the said inspectors, or some or one of them, and filed in the office of the clerk of their town.

XIX. *And be it further enacted*, That it shall be the duty of the said inspectors, to visit all such common schools within their town, as shall be organized according to law, at least once a year, and oftener if they shall deem it necessary, and to examine into the state and condition of such schools, both as respects the proficiency of the scholars and the good order and regularity of the schools, and from time to time, to give their advice and direction, to the trustees and teachers of such school, as to the government thereof, and the course of studies to be pursued therein; and such visitation may be made by any one or more of the said inspectors, and to that end, each of the said inspectors, by agreement with or direction of the other inspectors, may be assigned to a certain number of schools; Inspectors to visit school and how.

tricts, which it shall be his duty, in a special manner, to visit and inspect as aforesaid.

District meeting how first organized. See sec. 2 of the act amending this act, passed April 17, 1822.

Their powers defined, in choosing officers.

Voting taxes

See also, section 12 of the same act.

Empowering trustees.

Tax for school house not to exceed 400d. unless commissioners approve.

Site for school house not to be altered without consent of commissioners.

Trustees may call special meeting.

No meeting held illegal for defect of notice, unless omission be wilful.

XX. And be it further enacted, That whenever any school district shall be formed by the commissioners of common schools, of any town, and notice of the time and place of the first district meeting, shall be served on the freeholders and inhabitants of such district, as herein before provided, it shall be the duty of the said freeholders and inhabitants of such district, liable to pay taxes, to assemble together in pursuance of such notice; and when so assembled in district meeting, or when lawfully assembled at any other legal district meeting, it shall and may be lawful for them, or a majority of such of them as shall be present at any such district meeting, to appoint a moderator for the time being, to adjourn from time to time, as occasion may require, to fix on a time and place for holding their future annual meetings, which annual meetings they are hereby authorised and required to hold, to choose one district clerk to keep the records and proceedings of such meeting, also three trustees to manage the concerns of such district, and one district collector; also to designate a site for their school house, to vote such a tax on the resident inhabitants of their district as they, or a majority of such of them as shall be present as aforesaid, shall deem sufficient to purchase a suitable site for their school house, and to build, hire, or purchase such school house, and to keep in repair and furnish the same with necessary fuel and appendages; also, to empower and instruct their trustees, as to the collection of monies due for instruction, and the exoneration of poor and indigent persons from the payment thereof, as is hereinafter provided; and to repeal, alter, regulate, and modify all such proceedings, or any part thereof, from time to time, as occasion may require: *Provided however,* That no tax, to be voted by such district meeting, for building, hiring, or purchasing a school house in their district, shall exceed the sum of four hundred dollars, unless the commissioners of common schools, or the major part of them, of the town in which such school house is to be situated, shall certify, in writing, that in their opinion a larger sum ought to be raised by such tax for the purpose aforesaid, and what sum would, in their opinion, be sufficient for that purpose; and in case such certificate shall be so made, no sum exceeding the sum therein specified, shall be raised by such tax for the purpose aforesaid: *And provided further,* That whenever the site of a school house shall be designated, as herein before directed, and a school house shall be built thereon, such site shall not be altered, or the school house thereon removed to any other place, by such district, without a certificate, in writing, from the commissioners of common schools, or the major part of them, of the town in which such school house is situated, that such alteration or removal is, in their opinion, necessary and proper: And it shall and may be lawful for the trustees of any school district, or a major part of them acting as such trustees, whenever they shall deem it necessary, to call a special meeting of the said freeholders and inhabitants of their district, notice thereof being given as hereinafter provided; and no district meeting, held by virtue of this act, shall be taken or deemed illegal, for defect or want of due notice to a part of the said freeholders and inhabitants of such district, provided the omission to give such notice be not wilful and designed.

XXI. And be it further enacted, That if any person, not liable to pay taxes as aforesaid, shall vote in any district meeting for granting of taxes, for choice of officers, or for any other matters contemplated by this act, such person so offending shall forfeit and pay the sum of ten dollars, to be recovered, with costs of suit, before any justice of the peace having jurisdiction thereof, in the name of the commissioners of the district in which such vote shall have been given, and it shall be the duty of the said trustees to prosecute for the said penalty, and to apply the same, when recovered, to the use of the common school in their district.

Penalty for voting in district meeting when not qualified

XXII. And be it further enacted, That the clerk, trustees, and collector, of each school district, shall hold their respective offices until the annual meeting of such district next following the time of their appointment, and until others shall be appointed in their places: And in case such offices, or any of them, shall be vacated by the death, refusal to serve, removal out of the district, or incapacity of any such officer, and such vacancy shall not be supplied by the district, at a special or other district meeting, within one month thereafter, it shall and may be lawful for the commissioners of common schools, for the town in which such district shall be situated, to supply such vacancy by the appointment of any person residing in such district; and such appointment shall have the same effect, to all intents and purposes, as if the same had been made by the district at any legal district meeting: And every person, who shall be duly chosen or appointed as aforesaid, to serve in any such office, and shall refuse to serve therein, shall forfeit and pay the sum of five dollars, to be recovered, with costs of suit, by action of debt, in the name of the commissioners of common schools, for the town in which such person shall reside, or in the name of any other person, before any justice of the peace having cognizance thereof; and such sum when so recovered, shall be paid to the commissioners aforesaid, for the use of the common schools in such town: And every person, who, being duly chosen or appointed as aforesaid, to serve in any such office, and having accepted thereof, or not declared his refusal to accept, shall neglect the performance of the duties of such office, shall forfeit and pay the sum of ten dollars, to be recovered, with costs of suit, in the manner aforesaid, and for the use aforesaid.

District officers how long to continue in office

Vacancies how supplied

Penalty for refusing to serve.

Penalty for neglect of duty.

XXIII. And be it further enacted, That it shall be the duty of the clerk of each school district to keep the records and proceedings of his district, in a book to be provided for that purpose, and to enter therein true copies of all reports made by the trustees of his district to the commissioners of common schools; and whenever a special district meeting shall be called by the trustees of such district, it shall be the duty of such clerk, or if there be no clerk, or he is absent or incapable of acting, then of the said trustees, to give notice of the time and place of such special district meeting, to each of the freeholders and inhabitants of such district liable to pay taxes, as aforesaid, at least five days before such meeting shall be held; and in case any such freeholder or inhabitant shall be absent from home, such notice to him shall be left, in writing, at the place of his abode: And when any district meeting shall be adjourned, for a longer time than one month, it shall be the duty of the clerk of such district, or if there be no clerk, or he be absent, or incapable of acting, then of the said trustees, to put up a notice, in writing, of the

District clerk, his duty in keeping records, warning meeting, &c.

To give notice to superintendent of vacancies for teachers.

To deliver books, &c to successor.

District collector, his power and duty.

To give security if required.

Consequence of refusal.

Collector liable for neglect of duty.

Trustees to assess district taxes, and on whom & how

time and place of such adjourned meeting, in at least four of the most public places of such district, at least five days before the time appointed for such meeting; and notice shall be given in like manner, of every annual meeting to be held in such district: And it shall be the further duty of such clerk, whenever his district shall be destitute of a teacher, to give notice thereof (if so directed by the trustees) in writing, or otherwise, to the superintendent of common schools, stating, as far as practicable, the terms and conditions on which it is proposed to employ such teacher: And it shall be the further duty of such district clerk to keep and preserve all records, books, writings, and papers belonging to his office; and on the expiration of his time of service, to deliver the same to his successor in office, in the same manner as the town clerk is required by law to deliver all records, books, and papers, belonging to his office, to his successor in office.

XXIV. *And be it further enacted*, That the collector of each school district shall have the same power and authority, and shall proceed in the same manner, in collecting all monies, required to be collected in his district, and shall be allowed the same fees therefor, as are or shall be provided by law, for or in respect to the town collector, in collecting any monies in his town: And such district collector shall, if thereunto required by the trustees of his district, or the major part of them, execute and deliver to such trustees, or to some or one of them, a bond, with one or more sureties, to be approved by such trustees, or some or one of them, in double the amount of the taxes, or other monies be collected by him, and conditioned for the due and faithful execution of the duties of his office: And in case of his refusal or neglect to execute and deliver such bond, within such time, not less than ten days, as shall be allowed to him for that purpose by the said trustees, his office of collector shall thereby be vacated; and thereupon, it shall and may be lawful for the said trustees, or the major part of them, to appoint any other person, residing in their district, to supply such office so vacated; and such person, being so appointed, shall hold his office in the same manner, to all intents and purposes, as if he had been chosen to said office by the freeholders and inhabitants of his district, in legal district meeting: and it shall be the duty of the collector of each school district, when thereunto lawfully required by warrant from the trustees of his district, to collect and pay over to them all monies which he shall be so required, by such warrant, to collect and pay over to them, according to the command, and within the time therein contained: And in case he shall refuse or neglect to collect and pay over to the said trustees any such monies, which might by due diligence have been collected and paid over to them, by him, within the time required by said warrant, he shall be liable to pay to the said trustees of his district, the amount of all such monies, which he shall have so refused or neglected to collect and pay over as aforesaid, and the same may be sued for and recovered, with costs of suit, in any court having cognizance thereof, by action of debt, in the name of the said trustees, or either of them, for the use of their district.

XXV. *And be it further enacted*, That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a district tax, or as soon thereafter as may be, to make

out a rate bill thereof, or tax list, which shall contain the names of all the taxable inhabitants residing in their district, at the time of making out such rate bill or tax list, and the amount of tax, payable by each of said inhabitants, set opposite to their respective names: every person owning or holding any real estate lying within such district, who shall improve and occupy the same by his agent or servant, shall, (in respect to such estate, and within the meaning of this act,) be taken and considered a taxable inhabitant of such district, within which such estate shall be so occupied by him, in the same manner as if he actually resided therein; and in making out such rate bill, or tax list, the said trustees shall so apportion said tax, as to raise the same, with five cents on every dollar thereof for collector's fees, on all the said taxable inhabitants residing in such district, at the time of making out such rate bill or tax list as aforesaid, according and in proportion to the valuations of the taxable property, which shall be owned or possessed by them, at the time last aforesaid, within such district, or which, being intersected by the boundaries of such district, shall be so owned or possessed by them partly in such district, and partly in any adjoining district; provided, that where any such property shall be owned by one of the said inhabitants and possessed by any other, only one of them shall be taxable therefor; and the valuations of such property shall be ascertained and taken from the then last assessment roll of the town, so far as the same can be ascertained and taken therefrom; and none of the said inhabitants shall be entitled to any reduction in the valuations of such property, contained in the said last assessment roll of the town, unless they shall give notice of their claim to such reduction to the trustees aforesaid, before the rate bill or tax list aforesaid shall be made out by them; and in all cases in which such reduction shall be claimed by any of the said inhabitants, and notice thereof shall be given as aforesaid, and in all cases in which the valuations of such property cannot be ascertained and taken from the said last assessment roll of the town, it shall and may be lawful for the trustees aforesaid, to inquire into, and ascertain the same, from the best evidence in their power, giving notice thereof to the person or persons affected thereby, and proceeding therein in the same manner as the town assessors are required by law to proceed in the valuations of taxable property; and whenever any such rate bill or tax list shall be made out and completed as aforesaid, it shall thereupon be the duty of the said trustees, to annex to such rate bill or tax list a warrant, and to deliver the same to the district collector; which warrant shall be substantially as followeth: County of

To the collector of school district number _____ in the town of _____ in the county aforesaid, greeting. In the name of the people of the state of New-York, you are hereby commanded and required to collect, from each of the inhabitants of said district, in the annexed tax list named, the sum of money set opposite to his name in said list, and within thirty days after receiving this warrant, to pay the amount thereof collected by you, (retaining your fees for collection,) into the hands of the trustees of said district, or some or one of them, and take his or their receipt therefor: and if any of the said inhabitants shall refuse or neglect to pay said sum, after lawful demand thereof, you are hereby further commanded to levy the same by distress and sale of the goods and chattels of such defen-

See sec. 4 & 5 of the act amending this act, passed April 17, 1822.

Valuations of property to be taken from town assessment, if practicable

When to be made by trustees.

ss. Form of warrant to collect district tax.

quent, together with the costs and charges of such distress and sale, according to law. Given under our hands and seals this day of

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{ L. S. }
{ L. S. } } Trustees."

Warrant
may be re-
newed.

And if the sum or sums of money, payable by any person named in any such tax list or rate bill, shall not be paid by him, or collected by virtue of the said warrant, within the time therein limited, it shall be lawful for the trustees aforesaid, to renew such warrant in respect to such delinquent person: or in case such person shall not reside within their district, at the expiration of such warrant, and no goods or chattels can be found therein, whereon to levy the same, it shall and may be lawful for the said trustees to sue for, in their own names, and recover from such person the amount of such tax, with costs of suit, by action of debt, in any court having cognizance thereof.

Duty of trust-
ees to build
school houses
&c.

XXVI. *And be it further enacted,* That it shall be the duty of the trustees of each school district, whenever a district meeting shall have voted a tax for that purpose, and the same shall be collected and received by them, to purchase a site for their school house, as designated by their district, and to build, or purchase, keep in repair and furnish, such school house with necessary fuel and appendages: and it shall be their further duty to have at all times the custody and safe keeping of their district school house; to agree with and employ all teachers to be employed therein: And it shall be the further duty of the trustees aforesaid, to pay the wages of such teachers, out of the monies which shall come into their hands from the commissioners of common schools, so far as such monies shall be sufficient for that purpose, and the residue of the wages of such teachers shall be collected by the trustees of such district, unless such teachers shall agree to collect the same, from all such persons as shall be liable therefor respectively: And it shall and may be lawful for the trustees of such district, when thereunto authorised and empowered by any legal meeting of such district, or a majority of such meeting, to exonerate from the payment of the wages of such teachers, or the residue aforesaid of such wages, all such poor persons, within their district, as they shall think proper; and to collect the whole of the said wages, or the whole of the residue thereof aforesaid, from all such other persons as shall not be so exonerated therefrom, and shall be liable therefor as aforesaid: And it shall and may be lawful for the trustees aforesaid, when thereunto authorised and empowered as aforesaid, to ascertain and settle, as often as they shall think proper, by examination of the returns or school lists of their teacher, by him for that purpose to be kept and certified on oath, before any justice of the peace, to be just and true, the number of days for which each such person, not so exonerated as aforesaid, shall be liable to pay for instruction, and the amount payable by each such person, according to such liability; and to make out a rate bill, which shall contain the name of each such person liable to pay for instruction as aforesaid, and not so exonerated therefrom as aforesaid, together with the amount payable by each such person according to such liability, with the addition thereto of five cents on each dollar for collector's fees; and to annex to such rate bill, a warrant,

To employ
teachers,
pay their
wages out of
public money
as far as it
will go, and
to collect re-
sidue.

Teachers'
wages to be
collected by
warrant,
when and
how.

in the same manner and form, as is provided in the last preceding section of this act, in cases of rate bills or tax lists therein mentioned; and to deliver such rate bill, with such warrant thereunto annexed, to the collector of such district, who shall execute the same, in the same manner as it is provided for other warrants to be directed and delivered to him: And it shall be the further duty of the trustees aforesaid, whenever they shall exonerate any person or persons from the payment of any wages, by virtue of the aforesaid powers, to certify their proceedings therein, and deliver such certificate to the clerk of such district, to be kept on file in his office.

XXVII. *And be it further enacted,* That it shall be the duty of the trustees of each school district, annually, after the first day of January, and on or before the day appointed by law for the annual town meeting in their town, to make and transmit to the commissioners of common schools for the town in which their district shall be situated, (by delivering the same into the hands of the town clerk,) a report in writing, to be signed by them or a majority of them, and certified to be just and true, specifying the whole time any school has been kept in their district, during the year ending on the date of such report, and since the date of their last preceding report, and distinguishing therein what portion of such time their school has been kept by teachers duly appointed and approved in all respects according to law; specifying also the amount of monies received in their district, from the commissioners of common schools, during the said year ending as aforesaid, and since the date of their last preceding report, and the manner in which such monies have been expended; also the number of children taught in their district during the said year, and since the date of their said last preceding report, and the number of children residing in their district on the first day of January next preceding the time of so making their report, between the ages of five and fifteen years inclusive, except Indian children otherwise provided for by law: And where a school district shall be formed out of two or more adjoining towns, it shall be the duty of the trustees of such district to make and transmit a report, within the same time and in like manner and form, to the commissioners of common schools for each of the towns out of which their district shall be formed, and further, to specify and distinguish in such report, the number of children, between the ages aforesaid, residing in each part of their district, which shall lie in a different town from any other part thereof, and as near as may be, the number of such children taught as aforesaid, and the amount of monies received as aforesaid, for each part of their district: And where any neighborhood, or part of any town adjoining to any other state, shall be set off by the commissioners of common schools, for the purpose of sending their children to a school in such adjoining state, it shall and may be lawful for the freeholders and inhabitants of such neighborhood, or part of such town, annually to meet together and choose one trustee, whose duty it shall be, annually, within the time limited for making all district reports, to make and transmit to the commissioners of common schools of the town from which such neighborhood shall be set off, a report in writing, specifying the number of children between the ages aforesaid, residing in such neighborhood, the amount of money received from the said

Trustees to make annual report to commis'srs. when and how.

commissioners, since the date of his last preceding report, and the manner in which the same has been expended.

Penalty for
false report.

XXVIII. *And be it further enacted,* That if the trustees of any school district, or any or either of them, shall make a false report to the commissioners of common schools for their town, by means whereof any monies shall be fraudulently obtained from the said commissioners, or unjustly apportioned by them, such trustee, signing such false report, shall forfeit and pay the sum of twenty-five dollars to the commissioners of common schools for the town in which such trustees shall be appointed or chosen, to be recovered, with costs of suit, by action of debt, on this statute, before any justice of the peace having cognizance thereof, in the name of the said commissioners, or some or one of them, and such sum, exclusive of the costs of suit, shall be applied, when recovered by the said commissioners, to the use of the common schools of their town.

Trustees may
hold property
as a body
corporate.

XXIX. *And be it further enacted,* That all property which has heretofore been granted to any school district, or to any former trustees of any school district, for the use and benefit of their district school, shall be taken and deemed to be vested in the present trustees of such school district, for the use and benefit of their school, in the same manner as if such property had been granted to them for such use and benefit; and the trustees of any school district shall be enabled to hold any property so vested in them as aforesaid, or which has heretofore been granted to them, or shall hereafter be granted to them, for the use and benefit of their district school, and such property shall be to them, and their successors in office, in the same manner as if they were a body politic and corporate in law.

Trustees to
account to
district on
going out of
office, and to
their suc-
cessors for
money received.

And to pay
balance.

Penalty for
neglect.

XXX. *And be it further enacted,* That the trustees of each school district shall, on the expiration of their respective offices, exhibit and render to their district, in district meeting convened, and to their successors in office, a just and true account in writing, of all monies received by them respectively, for the use of their district, and in what manner the same shall have been expended by them, and such account shall be delivered to the district clerk, and kept on file by him; and if it shall appear from any such account, that any balance of the monies, received as aforesaid, shall remain in the hands of the said trustees, or any of them, at the time such account shall be exhibited as aforesaid, the same shall be paid, immediately thereafter, by the trustee, or trustees, in whose hands the same shall be found as aforesaid to be, to the said successors in office, or some or one of them; and if any such trustee shall refuse or neglect to exhibit and render such account as aforesaid, or pay over as aforesaid, any balance which shall be found in his hands as aforesaid, he shall forfeit and pay the sum of twenty-five dollars, to be recovered with costs of suit, in any court having jurisdiction thereof, by action of debt, in the name of the said successors in office, or any one of them, or in the name of any other person; and such sum, when so recovered, shall be paid to and applied by the said successors in office, to the use and benefit of their district school; and it shall and may be lawful for the said successors in office, or any one of them, to sue for, in his or their own name, and to recover against the said trustee, or trustees, his or their executors or administrators, in whose hands any such balance shall be found, in the manner aforesaid, or

can be legally proved in any other manner to be, and which shall not have been paid over by him or them to the said successors in office as aforesaid, the amount of such balance, together with the interest thereon from the time the same ought to have been paid as aforesaid, with costs of suit, by action for money had and received to the use of their school district, in any court having cognizance thereof; and such monies, so to be recovered, shall be applied to the use of the said district, in the same manner as if the same had been paid over as aforesaid without suit: And all bonds, or other securities taken by any trustee or trustees from the collector of their district as herein before provided, shall, on the expiration of his or their office, be assigned in writing and delivered over by him or them to his or their successors in office; and such assignment shall enable such successors in office, in their own names as assignees thereof, to sue and recover on said bond, in the same manner as if it had been originally executed to them.

To assign collector's bond.

XXXI. *And be it further enacted*, That if any person has paid, or shall hereafter pay, under a lawful assessment in any school district, a district tax for building a school house therein, and such person shall, within four years previous to the time of paying such tax, have been detached and set off from any other district, by the commissioners of common schools, without his or her consent, or request, and shall have actually paid in such other district, within the said four years, under a lawful assessment therein, a district tax for building a school house in such other district, and shall within a reasonable time, make affidavit of such facts before any magistrate, and lay the same before the commissioners of common schools, or any two of them, for the town in which the district from which he or she shall have been detached and set off as aforesaid, and in which he or she shall have paid such district tax as aforesaid, shall be situated; and if such commissioners shall be satisfied that the facts set forth in such affidavit are true, and that the tax or any part thereof, paid by such person as aforesaid, for building a school house in the district from which he or she shall have been detached as aforesaid, ought under all circumstances to be considered by them, to be refunded to such person by such district, it shall and may be lawful for the said commissioners, or any two of them, to direct and require the trustees of such district to refund the same accordingly, within a given time, to be fixed by them the said commissioners; and it shall and may be lawful, and shall be the duty of such trustees, when so directed and required by the said commissioners, to raise the sum to be required as aforesaid, together with the next district tax, to be raised thereafter by them in their district, and in the same manner as such district tax shall be raised, and to refund the same when so raised, to such person as aforesaid; and if such trustees shall refuse or neglect to raise and refund such sum, in the manner aforesaid, and within the time to be directed as aforesaid, it shall and may be lawful for the commissioners aforesaid, to retain such sum out of monies which shall next thereafter be apportioned by them to such district, out of the monies which shall come into their hands for the use of the common schools of their town, and to pay the same to such person as aforesaid.

Remedy where a person pays tax as for two school houses

XXXII. *And be it further enacted*, That in all cases in which any part of any district tax, for the purpose of purchasing a site for a

if tenant pay taxes he may

charge land-
lord.

school house, or for purchasing or building such house, or for keeping in repair and furnishing such house with necessary appendages, shall hereafter be lawfully assessed and paid by any person, for or on account of any real estate, whereof such person is only tenant at will, or for years, or for a less period of time, it shall and may be lawful for such tenant to charge the landlord or owner of such real estate with the amount of tax, so paid by him as aforesaid, for or on account of such estate, unless some agreement to the contrary shall have been made by such tenant.

On division
of towns,
school money
to be divided.

XXXIII. *And be it further enacted*, That whenever any town shall be divided or altered, all monies, in the hands of the commissioners of common schools for such town, shall be divided and disposed of in the same manner as the poor of such town, and the monies in the hands of the overseers of such poor, are, in such cases, by law to be divided and disposed of.

County clerk
to make re-
port to super-
intendent.
See sec-
tion 9, of the
act amending
this act, pass-
ed April 17,
1822.

XXXIV. *And be it further enacted*, That it shall be the duty of the clerk of each county, immediately after the first day of October, in each year, in case the commissioners of common schools of any town in the county shall have refused or neglected to make the necessary reports to him, to give notice thereof to the clerk of such town, whose duty it shall thereupon be to assemble the said commissioners for the purpose of making their report to the clerk of such county: And it shall be the duty of the clerk of each county, annually, between the first day of October and the first day December, to make and transmit, to the superintendent of common schools, a report, in writing, containing the whole number of towns in his county, and distinguishing therein the towns in which the necessary reports shall have been made to him by their commissioners of common schools, and containing also a certified copy of all such reports: And it shall be the duty of the superintendent of common schools to make an annual report to the legislature, embracing all the matters contemplated by this act.

Superintend-
ent to report
to the legis-
lature.

Wards in
Hudson and
Schenectady
considered
towns.

XXXV. *And be it further enacted*, That for the purposes of this act, each of the wards of the city of Hudson, and each of the wards of the city of Schenectady, shall be considered towns.

School money
in the
city of Albany,
to be ap-
plied to Lan-
caster school.

XXXVI. *And be it further enacted*, That out of the school monies apportioned from time to time to the county of Albany, the city of Albany shall have its proportion, with the towns in the county, according to its population; and such proportion shall be paid by the treasurer of the county of Albany, into the hands of the trustees of the Lancaster school in said city, to be applied to the education of such poor children, residing in said city, who shall be, in opinion of the said trustees, entitled to gratuitous education: *Provided*, That the said trustees shall annually account to the county treasurer of said county for the faithful application of such money, according to the true intent and meaning of this act, and shall make an annual report of the state and condition of their school to the superintendent of common schools.

See also, sec-
tion 3 of the
same act.

Repeal of
former acts.

XXXVII. *And be it further enacted*, That the act entitled "an act for the better establishment of common schools," passed April 15th, 1814, and the act entitled "an act to amend the act, entitled an act for the better establishment of common schools," passed April 18th, 1815, be and the same are hereby repealed, from and after

the first day of July next: *Provided*, That such repeal shall not invalidate, or in any manner affect the appointment of any officer made in pursuance of the acts hereby repealed, or the performance of any act, matter or thing done in pursuance of the said acts; but all officers appointed or chosen, and until the said first day of July, to be appointed or chosen, and all acts, matters, or things, done or suffered, and until the said first day of July, to be done or suffered, under or in pursuance of the acts hereby repealed, shall be and continue thereafter good and sufficient for the purposes of this act, so far as the same shall be applicable thereunto, in the same manner as if such officers had been appointed or chosen, and such acts, matters, or things, done or suffered, under and in pursuance of this act: *And provided further*, That nothing herein contained shall be construed to extend to, or in any manner affect, the act entitled "an act supplementary to the act entitled "an act for the establishment of common schools," passed March 12, 1813; or to the act entitled "an act relative to Erasmus Hall," passed April 1st, 1814; or to the act entitled "an act for the relief of the Montgomery academy," passed 24th March, 1815; or to the act entitled "an act authorising the application of the common school monies in the village of Athens, and in the city of Hudson, to the education of poor children," passed April 15th, 1814; or to the act entitled "an act to incorporate the Poughkeepsie Lancaster school society," passed March 11th, 1814; or to the act entitled "an act to incorporate the city of Troy," passed April 12th, 1816; or to the act entitled "an act to incorporate the Schenectady Lancaster school society," passed November 12th, 1816; or to invalidate any provision in relation to common schools, in the act entitled "an act to incorporate the village of Utica," passed April 7th, 1817; or to any act passed at the present session of the legislature.

Proviso.

See also sec. 11 of the act amending this act, passed April 17, 1822.

XXXVIII. *And be it further enacted*, That immediately after the passing of this act, it shall be the duty of the superintendent of common schools, to prepare suitable forms and regulations for making the reports and conducting all necessary proceedings under this act, and to cause the same, together with eight thousand copies of this act, and such instructions as shall be thought necessary and proper for the better government and organization of common schools, to be printed, published, and distributed among the several school districts in this state, in such manner as he shall deem proper; and for preparing, printing, and distributing the same, a sum not exceeding one thousand dollars, or so much thereof as shall be sufficient for that purpose, shall be paid to the said superintendent, on the warrant of the comptroller, out of the surplus revenue of the school fund, over and above the amount required for distribution.

Copies of this act to be distributed, &c. See also, sec. 10 of the same act.

XXXIX. *And be it further enacted*, That the superintendent of common schools shall be allowed the amount of postage paid by him on all letters which he may receive from the officers appointed under this act, on the subject of their duties respectively, and on all reports made to him by county clerks; and it shall be the duty of the comptroller, when requested by the superintendent aforesaid, to ascertain the amount of postage so paid by him, and to draw his warrant upon the treasurer for the same: and that the forty-third section of the act entitled "an act for the payment of certain officers

Postage of superintendent of common schools to be paid. See also, sec. 5 of the supply bill of 1822.

of government," passed April 17th, 1816, be and the same is hereby repealed.

STATE OF NEW-YORK, }
 Secretary's Office. }

I certify the preceding to be a true copy of an original act of the legislature of this state, on file in this office.

J. V. N. YATES, *Secretary.*

Albany, 1822.

EXTRACT from "*An act for the more easy pleading in certain suits, and for the relief of School Districts number Six and Fourteen, in the town of Deerfield, and county of Oneida.*"

"Passed March 30, 1820."

General issue
 pleadable in
 certain cases,
 and special
 matter allowed
 as evi-
 dence.

Double costs
 to defendant.

II. *And be it further enacted*, That if any action be brought against any commissioner of common schools, any trustees of any common school district, or any collector of any school district, or any other person, who in their aid or assistance, or by their commandment, do any thing touching his or their office, for or concerning any matter or thing by them, or any of them done by virtue of their offices, the said action shall be laid in the county where the trespass or fact be done and committed, and not elsewhere; and it shall be lawful for any person aforesaid to plead thereunto the general issue and give the special matter in evidence, and if the verdict shall pass with the defendant, or the plaintiff become nonsuit, or suffer any discontinuance, in every such case the court in which the action shall be brought, shall by virtue of this act, allow unto the defendant or defendants, his or their double costs, which he or they shall have sustained by reason of his or their wrongful vexation in defence of the said action, for which the defendant or defendants shall have like remedy as in other cases where costs are given to defendants.

EXTRACT from "*An act to amend certain acts whereby Oaths of Office are required or imposed.*"

"Passed March 23, 1821."

Commission-
 ers or inspec-
 tors of com-
 mon schools.

III. *And be it further enacted*, That every person who shall be hereafter chosen to the office of commissioner or inspector of common schools, in any town of this state, according to the provisions of an act entitled "*An act for the support of common schools*," passed April 12, 1819, shall, before he enters upon the execution of his office, and within fifteen days after his election, subscribe and transmit or deliver to the clerk of the town for which he shall be chosen a commissioner or inspector of common schools, a notice in writing signifying his acceptance of such office; and if any person so chosen, shall not transmit or deliver such notice of his acceptance, such neglect shall be deemed a refusal to serve in such office; and if any person so chosen to such office, shall refuse to serve therein, then, and in every such case, such person shall forfeit and pay the sum of ten dollars, to be recovered with costs of suit, before any justice

of the peace having jurisdiction thereof, by action of debt, to the use of common schools of the town for which such officer was chosen or appointed as aforesaid, to be paid to the commissioners of such schools; and it shall be the duty of the supervisor of such town to prosecute for such penalties in his own name, and to pay the same, when recovered, to such commissioners.

IV. *And be it further enacted*, That so much of the tenth section of an act entitled "An act for the support of common schools," passed April 12, 1819, as requires any oath to be taken by any person hereafter to be chosen a commissioner or inspector of common schools, or imposes any penalty for the neglect or refusal to take such oath, be and the same is hereby repealed. Part of former act repealed.

AN ACT

To amend the act, entitled "An act for the support of Common Schools," passed April 12, 1819.

PASSED APRIL 17, 1822.

I. *BE it enacted by the People of the State of New-York, represented in Senate and Assembly*, That whenever any new apportionment shall be made, by the acting superintendent of common schools, in pursuance of the fifth section of the act hereby amended, it shall be his duty, in all cases in which the census under which such apportionment shall be made, shall omit to state the population of any particular town, or towns, in any county in this state; to ascertain, by the best evidence in his power, the population thereof, and to make such apportionment accordingly. New apportionment hereby made, &c.

II. *And be it further enacted*, That no person shall vote at any school district meeting, unless he shall be a freeholder in the town in which he votes, or shall have been assessed the preceding year, or the year in which he votes, to pay taxes therein; or shall possess personal property, over and above such as is exempt by law from execution, to the amount of fifty dollars, liable to taxation in such school district; and in case any person, not qualified as aforesaid, shall vote at any such district meeting, he shall forfeit and pay a penalty of ten dollars, to be recovered, with costs, before any justice of the peace, by and in the name of the trustees of such district; or in case they refuse or neglect, by and in the name of the commissioners of common schools, in the town in which such district lies; and the penalty, when recovered, shall be applied to the support of common schools in such district. Qualifications to vote at district meetings.

III. *And be it further enacted*, That it shall be the duty of the corporation of the city of Hudson, and of the corporation of the Lancaster school, in the city of Schenectady, respectively, to make an annual report to the acting superintendent of common schools, of the state and condition of the schools in those cities, for whose Hudson and Schenectady.

benefit the school monies shall have been applied, in like manner as is required from the trustees of the Lancaster school, in the city of Albany, by virtue of the thirty-sixth section of the act hereby amended.

District collectors not bound to prove, &c.

Proviso.

IV. *And be it further enacted*, That no district collector of any school district, shall, in any action brought against him, for any alleged trespass in the service of a warrant issued by virtue of the twenty-fifth or twenty-sixth sections of the act hereby amended, be held, or required to prove, that the notice for summoning the district meeting authorising such warrant, was duly served, in the manner directed by the thirteenth section of the said act : *Provided* it shall appear, that in all other respects, the said warrant was regular and legal.

Trustees, &c. not liable in a certain case.

V. *And be it further enacted*, That no district collector nor trustees of any school district, shall be held liable in any action brought against them by a person paying a tax, to refund any monies collected under any warrant issued as aforesaid, for or by reason that such monies had not been applied to the purchase of a site *in fee* of a school house. But nothing in this section contained, shall exonerate any trustees or collector, from otherwise regularly accounting for the expenditure of any such public monies coming into their hands, in like manner, as if this section had not been passed.

School districts, how altered in certain cases.

VI. *And be it further enacted*, That if the commissioners of common schools, in any one town, shall require, in writing, the attendance of the commissioners of common schools of any other town or towns, to attend a meeting at some reasonable time and place, for the purpose of altering any school districts, lying in the said two or more towns, or of submitting the same to a district meeting, to be called as aforesaid for that purpose ; and the commissioners, or the major part of them so notified, shall refuse or neglect to attend at such meeting, it shall be lawful for the commissioners attending the same, or the major part of them, to call a special district meeting in the said district, for the purpose aforesaid, in like manner, and with like effect, as if the same had been called by all the commissioners of the towns or trustees interested therein, and the decision of such district meeting shall be as valid and effectual, as if the commissioners of all the towns interested therein, had made the same : *Provided* it shall extend no farther, than dissolving the connection between the two towns, in which such district shall lie.

Proviso.

Appeal to the superintendent of common schools, &c.

VII. *And be it further enacted*, That it shall be lawful for any person, conceiving himself aggrieved by any decision which has been, or hereafter may be made by any district meeting ; or by the commissioners of schools in the forming or altering, or in refusing to form or alter any school district ; or by the commissioners in refusing to pay school monies to any district ; or by the trustees in paying any teacher, or in refusing to pay him ; or in refusing to admit any scholar, gratuitously, into any school ; or concerning any other matter under this act, or the act hereby amended, to appeal therefrom to the acting superintendent of common schools, whose decision thereupon shall be final.

Admission of teachers in certain cases.

VIII. *And be it further enacted*, That where any school house shall stand on the division line of two towns, or where any school district shall be composed of a part of two or more towns, it shall be lawful for the inspectors of common schools, of either of the said

towns, to examine into and certify the qualifications of any teacher offering to teach in such school district, in like manner, and with like effect, as is specified in the eighteenth section of the act hereby amended.

IX. *And be it further enacted*, That if the clerk of any county shall neglect to comply with any of the provisions contained in the thirty-fourth section of the act hereby amended, he shall forfeit and pay a penalty of one hundred dollars, to be recovered in an action of debt, with costs of suit, in any court having cognizance thereof, by and in the name of the acting superintendent of common schools, and the said sum, when recovered, shall be paid into the treasury of this state, and shall compose a part of the school fund. Penalty on county clerk.

X. *And be it further enacted*, That it shall and may be lawful for the acting superintendent of common schools, to cause to be printed, from time to time, so many copies of the act for the support of common schools, and of this act, and of the instructions, as amended, to accompany the said acts, as may be necessary for the supply of school districts, and of the officers entitled to such copies; and the comptroller shall draw his warrant on the treasury for the payment of the expense, on the certificate of the superintendent. Acts to be printed, &c.

XI. *And be it further enacted*, That it shall be lawful for the commissioners of school money, in the city of New-York, in making any distribution or payments of school monies, under the fourth section of the act, entitled an act, supplementary to the act, entitled "An act for the establishment of common schools," passed March 12th, 1813, to require such proof, on oath, or otherwise, as they, in their discretion, may deem satisfactory, of the number of children between the ages of four and fifteen years, gratuitously taught in any charity school in the said city, claiming any part of such monies, and to suspend the payment of such monies until such proof shall be produced; and in case no such proof shall be produced by the second day of May in any year, the school or schools claiming any monies, and neglecting or refusing to produce such proof, when required, shall forfeit every claim thereto for such year; and the monies claimed by them, shall remain in the hands of the chamberlain of the said city, and shall form a part of the school monies to be distributed in the succeeding year: *Provided* it shall be lawful for any person, or for any such charity school, as shall consider themselves aggrieved by the decision of the said commissioners, to appeal therefrom to the acting superintendent of common schools; and his decision thereon shall be final. Regulations in N. York.

XII. *And be it further enacted*, That in all cases where the necessary fuel for any district school shall not be provided by a tax on the inhabitants thereof, it shall be the duty of each and every person, who shall send any child or children to such district school, to furnish and provide his or her just and equal proportion of the fuel necessary for any such school, having reference to the number of children he or she may send to such school, to be ascertained and determined by the trustees of such district, or any two of them; and the said trustees, in determining the proportion of fuel as aforesaid, shall first exclude and exempt all such poor persons, as, in their opinion, are unable to furnish the same: and if any person, liable to furnish and provide fuel as aforesaid, shall neglect or refuse to furnish and provide the same, on notice for that purpose from any one of the Regulation as to fuel, &c.

said trustees, it shall thereupon be the duty of the said trustees to furnish and provide such necessary fuel, and to charge the person in default, the value or amount paid for such fuel, together with any other expenses which may be accrued in the premises; and the said trustees shall and may recover the same, of the person so in default, together with costs of suit, in any court having cognizance thereof.

STATE OF NEW-YORK, }
 Secretary's Office. }

I certify the preceding to be a true copy of an original act of the legislature, on file in this office.

J. V. N. YATES,

Albany, April 29, 1822.

Secretary of State.

EXPOSITION.



IN consequence of the passage of an act, at the last session of the legislature, amending the act for the support of common schools, it has become necessary for the acting superintendent to issue a new exposition of the various provisions applicable to the common school system. Such parts of the exposition made by a former superintendent, as still apply, have been retained, and others have been so modified and altered, with such additions as to adapt them to the existing regulations.

The first and second sections of the school act of 1819, relate to the office and duties of the superintendent. His powers, however, have been extended by the act of the last session, so as to give him the right of deciding upon all questions brought before him on *appeal*, and will be more particularly referred to in a subsequent part of this publication.

The third section of the act requires the sum of \$70,000 to be annually distributed for the support and encouragement of common schools; but the fund for the support of common schools was afterwards increased, and the sum of \$80,000 is now annually appropriated. This sum has, therefore, been apportioned among the several counties and towns, and will continue to be annually paid, until the fund shall increase in the manner contemplated by this section.

In the fourth and fifth sections, the county treasurer will find all his duties under this act. These relate to receiving and paying out the public money, and the apportionment of it in certain cases. The public money is payable on the first of February in each year; and it is made the duty of the county treasurer to apply for and receive it, as soon as may be, after that day. The apportionment among the towns is to be made, as far as may be, by the superintendent of common schools, and transmitted by him to the county clerk, who will furnish the treasurer with a copy of it; and by that, as far as it extends, he will be governed in paying the money. There are some cases in which the superintendent of common schools cannot have sufficient data to enable him to make the apportionment, as where towns are divided or altered, subsequent to the latest census, so that the exact population of the new or altered towns cannot be ascertained by him. In these cases, the apportionment must be made by the county treasurer, from the best evidence he can obtain of the population of those towns. Where the apportionment of any town is at first made by the superintendent, and the town is afterwards divided or altered, so as to require an alteration of the former apportionment, it is made the duty of the county treasurer to make the alteration required. The treasurer will observe, that in all cases in which he either makes or alters an apportionment, he must deliver copies of his proceedings to the clerk of the county, and of the board of supervisors.

The ninth section of the act, regulates the election of commissioners and inspectors of common schools. Only three inspectors, in each town, are to be chosen. In large towns, where the duties of the inspectors will be arduous, the commissioners, who are, *ex officio*, inspectors, should be chosen with reference to their qualifications to discharge the duties of both offices.

By the tenth section of the act, the commissioners and inspectors of common schools were required to take an oath of office before they entered on their duties. But the fourth section of the act of March 23d, 1821, repeals so much of that section as requires them to take any oath, or imposes on them any

penalty for neglecting or refusing to do so ; and the preceding section requires that those officers, before they enter upon the duties of their office, and within fifteen days after their election, shall subscribe and transmit to the clerk of the town, *a notice in writing*, signifying their acceptance of the office, in default whereof, they shall be deemed to refuse to accept, and a penalty of \$10 is imposed for such refusal. These two sections above referred to, are now herewith published.

The duties of the commissioners of common schools are prescribed in the twelfth and six next succeeding sections of the act of 1819, and the sixth section of the act of 1822.

By the twelfth section, a provision is made, "that whenever it may be convenient and necessary to form a district out of two or more adjoining towns, it shall and may be lawful for the commissioners of common schools, or the major part of them from each of such adjoining towns, to form such district, and to alter and regulate the same," &c. In all proceedings under this provision, each of the towns must be represented by a majority of its commissioners. But the sixth section of the act of 1822, will enable the commissioners who are in favour of forming or altering a school district lying in two or more towns, to call a district meeting in case the other commissioners decline or refuse to meet ; and it is an important provision, well calculated to prevent many mischiefs under the act of 1819. Immediately after the formation or alteration of any school district, the commissioners must number the same, and deliver the description and number thereof, in writing, to the town clerk, who is required to receive and record the same in the town records, &c. The formation of a school district ought not to be considered complete, until a description and number of it be delivered to the town clerk, and recorded by him. After it has been once formed and recorded, any alteration of it will be wholly inoperative until it be in like manner recorded. School districts may be altered in any season of the year, without the consent of the trustees ; but the alteration, in such cases, is not to take effect under three months.

The thirteenth section of the act of 1819, was, among other things, intended to meet the case of a district which, after being once formed and organized, is dissolved without any intention to proceed under the act, or any power to reassemble. As where a district is formed, and the inhabitants meet in pursuance of notice, and after being organized as a district, resolve not to proceed under the act. In such case, if the inhabitants should again desire to be organized as a district, it would be proper for the commissioners to issue a new notice. And this is the only case in which a new notice would be necessary. A mere adjournment of the district meeting without day, where there is no intention to abandon the act, and all proceedings under it, does not, of itself, constitute a case, in which the commissioners are to give new notice ; there must be a dissolution of the district, and a relapse to the condition it was in before it was organized.

The fifteenth section prescribes the duties of the commissioners in the apportionment of school money.

In the first place, it provides that the apportionment of school money "shall not be made in any year, before the time appointed by law for the trustees of school districts to make their annual district reports, shall have expired." The time of making these reports will expire on the day of the annual town meeting, as provided by the twenty-seventh section of the act. Between the first day of January, therefore, and the next annual town meeting, no apportionment of school money can be made by the commissioners. And if any money should be received by them, during that time, it must be retained until after the town meeting : but if any should be received by them after the town meet-

ing, and before the close of the year, it may be immediately apportioned on the report made for that year. As the general apportionment of school money will ordinarily be made immediately after the annual town meeting, when new commissioners will be chosen, it may be made a question, whether it shall then be made by the old or new commissioners. On this point it should be observed, that by the ninth section of the act, the old commissioners are to continue in office until others shall be chosen. But the old commissioners may do any official act, after their successors have been chosen, until they shall have declared their acceptance of the office, as directed by the act of 1821, already alluded to. If the apportionment be made by the old commissioners, it must, as provided by the seventeenth section of the act, be delivered over by them, together with all monies remaining in their hands, to their successors. The next provision is, that the apportionment be made "among the districts which shall remain organized according to law." A district may be considered organized, within the meaning of this provision, which has been formed by the commissioners, and has complied with the act by electing the necessary district officers. No irregularity in the proceedings of these officers will affect the organization of the district. In the next place, the apportionment must be made among the organized districts, whose trustees shall have made, "within the time for that purpose limited, the necessary district reports, containing all the requisites provided by the act." These are, that the districts have reported within the time limited by the act; and that the reports contain all the necessary requisites. The time of making the district reports is limited, by the twenty-seventh section of the act, to the period between the first day of January and the next annual town meeting. Any reports made before or after that period, ought not to be regarded. The requisites of district reports, are fully specified in the twenty-seventh section of the act, and will also appear on reference to the forms prescribed for those reports. If the reports be wanting in any of these requisites, unless they are allowed to be *amended* as hereafter suggested, they must be rejected as insufficient, and the district, making them, will not be entitled to any share of the public money. But the commissioners should not hastily decide against a district, in case the trustees wish a postponement, in order to take the opinion of the superintendent on the subject. The next provision in the section, is, that the apportionment be made to these districts only, from the reports of which it shall appear, "that a school has been kept in the district, for at least three months, during the year ending on the date of the report, and since the date of the last report, by an instructor duly appointed and approved, and that all monies received, during that year, have been applied in paying the wages of such instructor." Keeping a school three months in the year, by an approved instructor, and applying all public money to the payment of his wages, are here made express conditions, on which the apportionment and payment of school money are both to depend. With these conditions every district ought strictly to comply. If, however, a district fully comply, it ought not to be deprived, because its school has been kept, for some other part of the year, by teachers not approved of by the inspectors. The strict legal import of the act is satisfied, if a regular school be kept, by an approved teacher, for three months in the year.

The sixteenth section prescribes the duties of the commissioners in making their annual report; and it is desirable that the form of this report be strictly pursued. The commissioners are requested to state, in their report, the different school books most in use in their town. The commissioners will also observe, that if they neglect to make their report in due time, they may not only subject themselves to a penalty, but their town to a forfeiture of its share of school money, as provided at the close of this section.

By the twentieth section of the act, the qualifications of voters at district meetings were heretofore prescribed. But the qualifications of a district voter are *now* altered, and declared to be as follows: [see Section II. of the *amendatory* act of 1822.]

1. Being a freeholder *in the town*; or,
2. Having been assessed to pay taxes the preceding year; or,
3. The year in which he votes; or,
4. Shall possess personal property, (over and above such as is exempt by law from execution,) to the amount of \$50, liable to taxation in such school district.

The tax referred to, must be a tax *in money*. Highway taxes, or service in the militia, do not, of course, fall within this description. No person can vote, unless, in addition to the above qualifications, he is legally settled and lives in the district.

The powers and duties of districts, defined by the twentieth section of the act, can only be exercised in a district meeting, held in the manner prescribed by the act. If it be an adjourned meeting, it must be held at the time and place to which it was adjourned, and at no other; and if the adjournment was for more than one month, a notice in writing, of the time and place of the adjourned meeting, must be put up, in four of the most public places in the district, at least five days before the meeting is to be held. The five days here intended, should be exclusive of the day on which the notice is put up, and the day on which the meeting is to be held; so that if the meeting is to be on the seventh of the month, the notice ought to be put up on the first. In the case of annual meetings, a notice in writing must always be given in the same manner as if it were a meeting adjourned for more than one month; and the notice should state, that it is the annual meeting to be held. In the case of special meetings, called by the trustees of the district, a very different notice is required. It must be an individual notice to every freeholder and inhabitant qualified to vote in the district at a district meeting, by the act of 1822; and it must be personal, unless the person to be notified be absent from home, in which case it may be left in writing at the place of his abode. When a district meeting is held, the first inquiry ought to be, whether these prerequisites have been strictly complied with, and the meeting ought never to proceed to business until satisfied on this point. If there be any doubt of the regularity of the meeting, all further proceedings should be suspended, until a special meeting be called by the trustees in the manner prescribed by the act. This course will be much safer than to rely on the saving clause, at the close of the section. When a district meeting is legally convened, and not otherwise, it may exercise the powers granted by the act. But in exercising these powers, it should always be remembered that they must be strictly pursued. The district cannot choose any other officers than those specified in the act; nor can it, under any pretence whatever, raise a district tax for any other declared purposes than those specified in the act. A district tax for raising money to pay the wages of the teacher, or for any other purpose not specified in the act, would be illegal, and would subject the trustees and their collector to an action of trespass. One case would be exempt from a construction so severe; I allude to the fifth section of the act of 1822, which relates to the purchase of a site for a school house. The district cannot, it is true, legally vote for *leasing* or *procuring on contract*, such a site; it must be a vote "*to purchase*;" but under such a vote, the trustees and collector would not be liable to an action, in case they should procure a site, by lease or contract: yet they should never fail to *purchase in fee*, if practicable.

The rule of construction, which limits the powers of districts to their strict literal import and extent, does not apply, with equal severity, to mere matters of form in the exercise of these powers. If a district confine itself within the strict limits prescribed by the act, so that the subject matter of its proceedings be within its jurisdiction, the manner in which it proceeds, and the expediency of its proceedings, will be looked upon with great indulgence: any informality in the records of the district clerk, or in the proceedings of the trustees, will not, therefore, be enquired into with great strictness.

By the twenty-second section, when any district officer is appointed, and accepts of the office, he cannot be removed, within the time here prescribed, nor can he resign his office without subjecting himself to the penalty provided in the act for refusal to serve. It is intended, by the act, that district officers shall be chosen at every annual meeting of the district. But if the annual meeting be not held, or if no officers be then chosen, they may be chosen at any subsequent meeting of the district, whether special or otherwise.

The time of holding the annual district meeting, and choosing new district officers, ought to be fixed in that season of the year, when the affairs of the district will be most likely to be settled and closed. The winter school, being the most important in the year, ought not to be interrupted by a change of officers in that season. The month of September or October is considered the most suitable time in the year for the annual meeting; as that will always give the old trustees sufficient time to close their accounts, and at the same time be in season for the new ones to prepare for the ensuing winter school. It is advisable, however, to avoid too frequent changes in the office of trustee, and to continue those who have acted faithfully and honestly. Much difficulty will be avoided, in case this course should be adopted.

By the twenty-third section, it is made the duty of the district clerk, "when- ever his district shall be destitute of a teacher, &c. to give notice to the super- intendent of common schools," &c. This provision, (suggested by the frequent applications made to the former, as well as present, superintendent,) will, if complied with, be for the benefit, probably, of both schools and teachers.

The twenty-fifth section prescribes the duties of the trustees in making out rate bills or tax lists for district taxes. With respect to the provision subject- ing persons owning lands in the district on which they do not reside in person, but cultivate or occupy the same by their agent or servant, it is proper to ob- serve, that it does not apply to landlords who have tenants on their land; be- cause in such cases the tenant, having an interest in the land, and being a tax- able inhabitant within the meaning of the act, ought to be taxed for the property in his own name, especially if the landlord live out of the district. And be- sides, a tenant is not an agent or bailiff, in any sense of the word; the former hiring land and being entitled to the profits of it, while the latter is only hired to take charge of land, without any interests in its profits. The provision, therefore, must apply to such persons only, who hold property in the district, and who, instead of letting it out to a tenant, send their agent or servant to cul- tivate it for them. And it applies to such persons, whether they reside in the district, or out of it, or even out of the state. The person who employs the agent or bailiff, and who is entitled to the produce of his labour, is the one to be taxed: if he own the produce of the land out of which the tax can be col- lected, it is immaterial whether he own the land or not. One who takes land on shares, unless it be for a single crop, ought to be considered a tenant, espe- cially if he be in the full occupation of the property. The trustees will ob- serve, that this provision in the act, does not extend to non-resident's property lying vacant and unimproved in the district; such property cannot be taxed under this, or any other provision in the act.

In making out the rate bill for district taxes, great care should be taken to include in it such persons only as are properly taxable. For as the tax is merely personal, and, not like other taxes, a lien on property, it cannot be collected unless it be assessed on the persons justly chargeable with the tax. The rate bill should include all such persons, and such only, as, at the time of making it out, are taxable inhabitants of the district, within the meaning of the act. The fact of their being then taxable, will always result from the evidence of their owning or possessing taxable property within the district. This fact should be ascertained with certainty. The town assessment roll, although it may be resorted to for evidence, will not be an infallible criterion, especially if it has not been recently made out. No inhabitant who has taxable property, ought, on account of his not being assessed in the town roll, to be omitted in the district assessment.

Where property is owned and possessed by different persons in the same district, either the owner or tenant may be assessed for it. If the tenant hold it on a short lease, or if his ability to pay the tax be doubtful, the owner will be the proper one to be taxed; but if the owner live out of the district, the tenant will then be the only one that can be taxed.

No person can be taxed in one district, for property lying in another. In ascertaining the valuations of property, the trustees will observe, that they are to take them from the last assessment roll of the town, as far as practicable: but as that will often contain property in different districts assessed to the same person, they must be careful to distinguish, in such cases, and not take in property out of their district. The provision, that no person shall be entitled to any reduction in the valuations of his property, as contained in the town assessment, unless he give notice of his claim to reduction, applies only to his property in the district. The trustees ought always to see that no person be taxed for property out of the district.

If it be necessary to renew a warrant to collect a district tax, it must be done by the existing trustees, and it may be renewed by them, although issued by their predecessors in office.

By the twenty-sixth section, it is made the duty of the trustees, "whenever a district meeting shall have voted a tax for that purpose, and the same shall be collected and received by them, to purchase," &c. The trustees ought always to collect the tax before they make any contract in anticipation of it: for, as their contracts will be obligatory on them, personally, and not on their successors, if they make them before a tax be collected, and it should happen that the tax could not, or should not, be realised by them before they went out of office, they would, nevertheless, have to fulfil their engagements, and at the same time, not having any control over the collection, would be dependent on their successors for indemnity. It should always be remembered that the trustees are not a body corporate for any other purpose than that of holding property for the use of their district school, and that, consequently, all contracts made by them, although in their capacity of trustees, will bind them personally, and not their successors in office. And it should also be remembered, that when trustees go out of office, their powers, as well as their duties, devolve on their successors, and that, consequently, they cannot afterwards control the collection of a tax, or the disposition of it when collected, although the assessment of it may have been made by them, and the warrant for its collection issued in their names while they were in office. In such a case, they might probably have a legal remedy against their successors, if they refuse to collect the tax, or to apply it, when collected, according to its original application; but that course would be attended with difficulty, and would involve litigation. The trustees ought not, therefore, to make contracts

in anticipation of funds to be raised by district taxes, nor to leave their concerns unsettled, when their time of service expires.

By the same section of the act of 1819, the trustees are to agree with and employ all teachers, to pay their wages out of the public money as far as it will be sufficient for that purpose, and to collect the residue of such wages, from the persons liable therefor, unless the teacher shall agree to collect the same for himself. As to the employment of teachers, it is made the exclusive duty of the trustees; and they ought not to suffer a school to be kept in their district school house, for any part of the year, by persons not employed or approved by them. As to the public money, the trustees have a discretion to apply it in such seasons of the year as they shall think proper. But they must take care to apply it to the payment of teacher's wages, and to the wages of such teachers only, as have been duly employed by them or their predecessors in office, and approved, in all respects, according to law; otherwise they, or their successors will not be able to make a sufficient report to the commissioners to entitle them to their distributive share of public money for the next year. In applying the public money, it must always be paid to the teacher on account of his wages. It is not to be distributed among the scholars or their parents; nor is it to be applied for the exclusive benefit of children between the ages of five and fifteen years, or of any other particular description of scholars. All who reside in the district and attend the school, as they may of common right, must necessarily participate equally in the benefit of the public money: for as it must be applied to the payment of teacher's wages generally, without reference to any particular scholars, it will reduce the amount which would otherwise be payable by each employer alike to all. If a district be formed out of two or more adjoining towns, and the trustees receive money from each town, they must nevertheless consider it as one common fund, and apply it for the benefit of all alike, in the same manner as if they were one entire district in one town. But if children, not residing in the district, be permitted, by the trustees, to attend their school, as such permission might have been withheld, it may, and ought, if granted, to be on condition that no part of the public money shall be applied for their benefit.

The provision, in this section, that the trustees shall collect the teacher's wages, unless he shall agree to collect them for himself, means only, that they may demand and receive, or sue for and recover such wages, like any other debts. And this they may do after the expiration of their office, as well as before. The provision does not mean that they may issue a warrant, and collect the teacher's wages in that summary way. By a subsequent clause in the section, the trustees may, when authorised by a vote of their district, collect their teacher's wages by warrant to their collector, but this cannot be done without the express authority of the district, nor without a settlement of the amount due from each person, by examination of the teacher's returns or school lists in the manner pointed out by the act. This latter course of collecting teacher's wages by warrant, cannot be resorted to by trustees out of office, unless their successors will sign the warrant. It is recommended to the districts, generally, to authorise their trustees to collect teacher's wages by the summary process of a warrant to their collector, as it will always relieve them from much trouble, and in many cases prevent losses.

By the twenty-seventh section of the act, the trustees are required to make an annual report to the commissioners, after the first day of January, and on or before the day of the next annual town meeting. The form of this report the trustees will strictly follow. It should be remembered, that the trustees are to make their report, and deliver it to the town clerk, on or before the day of the annual town meeting.

There are several provisions in the act of April 17, 1822, amending the school act of 1819, herewith published, which require some notice in this place.

The third section of the act of 1822, directs the corporation of the city of Hudson, and the corporation of the Lancaster school, in the city of Schenectady, to make annual reports to the superintendent. This provision will enable him to present a more full and complete view of the progress of the common school system, than he could heretofore do.

The fourth and fifth sections will guard trustees and collectors from vexatious prosecutions; and the latter section will be particularly useful in districts where *land in fee* cannot be procured for the site of a school house.

The seventh section, giving the right of *appeal* to any party injured by the decisions of commissioners or trustees, or otherwise, under the acts of 1819, and 1822, may be considered of vital importance, as it may prevent expensive litigation, as well as frequent applications to the legislature for relief. It is desired, that before any appeal is preferred to the superintendent, that notice in writing of such appeal be served on the opposite party: no precise form is required; brevity, perspicuity, and truth, are the only requisites. At the same time, let it be remembered, that, should any appeal be made by any district, or by the trustees of any district, from any apportionment or distribution made by the commissioners, or against any forfeiture the district may be supposed to have incurred, that the monies in the hands of the commissioners, or other officers, which are claimed by the appellants, should be retained by them for a reasonable time, so as to enable the superintendent to decide upon the question, and to do full justice between the parties, before the monies are paid over.

The eighth section makes provision for a case rather obscurely referred to in the act of 1819, with respect to the admission and qualification of teachers.

The *twelfth* section introduces an important amendment, with respect to *fuel*, and will obviate many complaints that were heretofore made.

The acting superintendent subjoins a few of the decisions he has made during the short time in which the duties of the office have devolved upon him; he trusts they may serve, in some instances, to avoid controversies and *appeals*.

He has decided,

1. That the alteration of a school district, in any town, is a *judicial* act; and the commissioners, or a majority of them, must meet together when they act, and cannot, *separately*, without a previous meeting, determine and adjudge upon the matter.

2. That where the trustees of a district have complied, *substantially*, with all the requisites of the law, the commissioners ought to permit defects of *form*, in their reports, to be *amended*.

3. That the monies received by the trustees, must be applied for the payment of the wages of such teachers, as are employed *after* the date of the report on which they receive such money, and *before* the date of their succeeding report.

4. That children of the age of four years, eleven months, and twenty-nine days, or any age short of that, and those also of the age of fifteen years and one day, or of any age between that time and sixteen years, or above sixteen, are *not* to be included in the returns made under the twenty-seventh section of the act of 1819.

5. The officers of a school district, although it may extend into two or more towns, may reside in any part of the district, and the trustees are not required to be *freeholders*, though it is adviseable that none but freeholders should be elected.

6. Where the word "*month*" is used in the law, it means a *lunar month*, [28 days,] and not a *calendar month*, unless otherwise declared.

7. The words, "a quarter of a year," mean three calendar months; the usual and approved holidays are to be deemed a part of the time in which a school is kept. The words, "three months," mean three *lunar*, and not calendar months.

8. A trustee of a school district, cannot, at the same time, hold the office of district collector and trustee.

9. If the commissioners, or any of them, *accept* a return from the trustees, it is equivalent to a delivery to the town clerk; and it then becomes the duty of the commissioner, or commissioners, receiving such return, to deliver it to the town clerk.

10. The branches of education in common schools, consist of reading, writing, arithmetic, and geography: to these may be added, *history*, so far, at least, as concerns our own country; *stenography*, or writing *short-hand*, might be profitably introduced, by such teachers as are versed in it, for the benefit of those who intend to study divinity or law. And it is not improbable, that, at no distant day, this time-saving system will receive considerable attention and patronage in our literary institutions.

11. A report made by the trustees, ought not to be afterwards contradicted before the commissioners, by any one of the trustees. Cases of gross and palpable fraud are not, however, to be countenanced or protected.

12. If a school house is burnt, before the quarter expires, the trustees may, temporarily, permit school to be kept elsewhere in the district, till another school house be established.

13. If a person owns land in a different district from the one in which he resides, such land is not taxable, under the school act, in either district, although he may cultivate or improve it himself, *unless some agent, tenant, or servant, occupy or cultivate it at the time.*

14. Where there is a surplus remaining in the hands of the trustees, unexpended for the wages of a teacher, not exceeding some small sum, as three or five dollars, the surplus may be *disregarded* by the commissioners, and the district ought still to be entitled to its share of the public monies. It ought, however, clearly to appear, that the conduct of the trustees had, in every respect, been regular and fair.

15. Accident, inadvertence, or mistake, should, generally speaking, work no injury to the party, if the act itself was fairly intended, and *bona fide* executed.

16. Although a teacher may be admitted as qualified by the inspectors of one town, it does not render a subsequent examination into his qualifications, in another town, unnecessary or improper. The inspectors of each town must be satisfied for themselves, and certify accordingly.

17. The notifying of a special district meeting, is not a *judicial* act. If one trustee notifies, and the others confirm the act, it is valid.

18. A trustee, leaving the district for a time to perform some work, and then to return, does not forfeit or lose his office during the time.

19. "To purchase a site for a school house," means to purchase *in fee*: where that cannot be done, the only protection afforded, is, by the fifth section of the act of 1822.

20. Where a district school house has been regularly built and established, it would be improper for the trustees to pay a teacher who kept school in another house, during the same period that school was also kept in the regular district school house. The last mentioned teacher is the only one entitled to be paid out of the public monies, and not the first.

21. Inspectors of common schools, or any two of them, ought to meet together when they are to examine into the qualifications of a teacher, so that

they may deliberate and act with caution. They ought not to act singly, and sign a certificate separately, before they have had a meeting to examine and deliberate. It ought to be considered a *joint* act of the inspectors when they certify.

The acting superintendent closes this exposition with the following extract from his report to the legislature at their last session :

In the short space of seven years, the number of children educated in common-schools, and returned to the superintendent, has increased from 140,000 to upwards of 330,000, far exceeding the ratio of increase in population during the same period.

Thus in the year 1816, 140,106 children were taught,

1817, 170,386

1818, 183,253

1819, 210,316

1820, 271,877

1821, 304,559

1822, 382,979

Every county in the state, but one, has presented its report for the preceding year. Twenty-seven towns have made no reports, and eleven have made imperfect ones. There are 6,865 school districts in the state, (an increase of about 300 since last year,) of which 5,882 have furnished their returns. The number of children reported between 5 and 15 years of age, is 349,258 ; and the proportion between that number and of those educated in common schools, is as 32 is to 35.

In 23 counties, the children that were sent to school, exceed in number those between the ages of 5 and 15 years, while in the other counties, the case is reversed. The average number of months in which common schools are kept during the year, is nearly eight. If we include the number instructed in other seminaries and schools, particularly in the cities of New-York, Albany, Hudson, and Schenectady, and in Poughkeepsie, the whole will not be probably less than 375,000 that were receiving public instruction in the state, during the preceding year ; being more than one-fourth part of the entire population of the state. A system that produces results so honourable to our legislators, and so favourable to the rights, interests, and future prosperity of our country, cannot fail, if continued, to give additional strength and stability to our republican forms of government, to diffuse more widely the blessings of rational freedom, and to perpetuate the civil and religious privileges we enjoy.

J. V. N. YATES, *Secretary of State, and*

Acting Superintendent of Common Schools.

Albany, April 29, 1822.

NOTE.—The acting superintendent intends, in a short time, to issue *New Instructions* as to the course of studies to be pursued, and the books to be used in common schools. Due notice will be given, so that all concerned will be furnished with the necessary copies.



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